

(2) The retirement of the employee after the employee has attained 59½ years of age;

(3) The disability of the employee (within the meaning of section 72(m)(5)); or

(4) The separation of the employee from service for any period which results in a 1-year break in service (within the meaning of section 411(a)(6)(A)).

Any disposition of employer securities within this paragraph and any disposition of employer securities with respect to which the condition contained in provision (c) of Q&A-1 of this section is not met shall be treated, first, as a disposition of securities that are not restricted qualified securities and, thereafter, as a disposition of restricted qualified securities (on a first-in, first-out basis).

(c) If restricted qualified securities held by an employee stock ownership plan or eligible worker-owned cooperative no longer meet the definition of qualified securities ("old restricted qualified securities") as a result of a transaction changing (1) the status of a corporation as an employer, or as a member of a controlled group of corporations including the employer, or (2) the existence of employer securities of the type described in section 409(l)(1), the disposition of such securities shall not be treated as a disposition of restricted qualified securities to which the tax under section 4978 is imposed if, within 90 days after such disposition, securities meeting the requirements of section 409(l) ("new restricted qualified securities") that are of equal value to the old restricted qualified securities (at the time of the disposition of the old restricted qualified securities) are substituted for such old restricted qualified securities. However, for purposes of determining the tax imposed under section 4978, old restricted qualified securities shall not be treated as if they retained their status as restricted qualified securities and new restricted qualified securities derived from the disposition of old restricted qualified securities pursuant to the preceding sentence shall be treated as restricted qualified securities for the remaining portion of the period during which the disposition of the old restricted qualified securities

would have been subject to tax under section 4978.

Q-4: To whom does the tax under section 4978 apply?

A-4: The tax under section 4978 is imposed on the domestic corporation (or corporations) or the eligible worker-owned cooperative that made the written statement of consent as described in section 1042(a)(2)(B) and Q&A-2 of §1.1042-1T with respect to the disposition of the restricted qualified securities.

Q-5: When does section 4978, as enacted by the Tax Reform Act of 1984, become effective?

A-5: Section 4978 applies to the disposition of qualified securities acquired in a sale to which section 1042 applies. See Q&A-6 of §1.1042-1T for the effective date of section 1042.

[T.D. 8073, 51 FR 4336, Feb. 4, 1986]

§ 54.4979-0 Excise tax on certain excess contributions and excess aggregate contributions; table of contents.

This section contains the captions that appear in § 54.4979.

§ 54.4979-1 Excise tax on certain excess contributions and excess aggregate contributions.

- (a) In general.
 - (1) General rule.
 - (2) Liability for tax.
 - (3) Due date and form for payment of tax.
 - (4) Special rule for simplified employee pensions.
- (b) Definitions.
 - (1) Excess aggregate contributions.
 - (2) Excess contributions.
 - (3) Plan.
- (c) No tax when excess distributed within 2½ months of close of year or additional employer contributions made.
 - (1) General rule.
 - (2) Tax treatment of distributions.
 - (3) Income.
 - (4) Example.
- (d) Effective date.
 - (1) General rule.
 - (2) Section 403(b) annuity contracts.
 - (3) Collectively bargained plans and plans of state or local governments.
 - (4) Plan years beginning before January 1, 1992.

[T.D. 8357, 56 FR 40550, Aug. 15, 1991; 57 FR 10290, Mar. 25, 1992, as amended by T.D. 8581, 59 FR 66181, Dec. 23, 1994]